

IN RE: PETITION FOR ZONING VARIANCE
W/S Oak Road, 152.87' S and
opposite of Maple Avenue
(4102-B Oak Road)
13th Election District
1st Councilmanic District
Clendo Pennington, et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1801.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building and window to tract boundary setback of 15 feet each in lieu of the required 30 feet for a building and 35 feet for a window for a proposed building in accordance with Petitioner's Exhibit 1.

The Petitioners, by Clendo Pennington, appeared and testified. Also appearing on behalf of the Petition were Dianna Hoffman, Petitioners' daughter, and Paul Ewell, Registered Land Surveyor. There were no Protestants.

Testimony indicated that the subject property, proposed to be known as 4102-B Oak Road, is part of the property known as 4102 Oak Road which consists of 1.005 acres zoned D.R. 5.5 and is improved with a single family dwelling. Petitioners are desirous of subdividing their property to create three lots and developing lots 2 and 3 with individual dwellings as depicted on Petitioner's Exhibit 1. Mr. Ewell testified on behalf of Petitioners that the relief requested is necessary due to the narrow width of the property. Testimony further indicated that all other setback and building requirements can be met by the proposed development and that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. Moham v. Bailey, 270 Md. 208 (1971). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with requirement would unnecessarily prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the District or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 35 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this _____ day of November, 1991 that the Petition for Zoning Variance from Section 1801.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building and window to tract boundary setback of 15 feet each in lieu of the required 30 feet for a building and 35 feet for a window for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 90-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) The relief granted herein is limited to proposed lots 2 and 3 of 4102 Oak Road, also known as 4102-A and 4102-B Oak Road.

3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 11/27/91
By [Signature]

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

November 27, 1991

Mr. Clendo Pennington
4102 Oak Road
Baltimore, Maryland 21227

RE: PETITION FOR ZONING VARIANCE
W/S Oak Road, 152.87' S and opposite Maple Avenue
(4102-B Oak Road)
13th Election District - 1st Councilmanic District
Clendo Pennington, et ux - Petitioners
Case No. 92-168-A

Dear Mr. Pennington:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

[Signature]

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

file



Petition for Variance

to the Zoning Commissioner of Baltimore County

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1801.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a building and window to tract boundary setback of 15 feet each in lieu of the required 30 feet for a building and 35 feet for a window for a proposed dwelling, in accordance with Petitioner's Exhibit 1.

DATE OF FILING: 11/27/91
FILE NO.: 92-168-A

REASON FOR REQUESTING VARIANCE: The property is located in a narrow lot and the proposed building and window to tract boundary setback of 15 feet each is necessary for the proposed development.

NOTE TO THE GENERAL SHAPE OF THE PROPERTY IT WOULD BE IMPOSSIBLE TO SUBDIVIDE AND GIVE MORE LOTS. SINCE THE FIRST SUBMITTAL SEPT. 1991, AND TIME AND EXPENSE HAS BEEN GREAT DUE TO ADDITIONAL COUNTY NEEDS FOR FLOOD STUDY, FIELD REVISIONS, ADDITIONAL DRUGS, AND THIS VARIANCE

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expense of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

CLENDO PENNINGTON

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

City and State

Phone No.

ESTIMATED LENGTH OF HEARING - 1 1/2 HRS.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER

REVIEWED BY: [Signature]

DATE 11/27/91

ORDER RECEIVED FOR FILING

Date 11/27/91

By [Signature]

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: 13th

Date of Posting: November 28, 1991

Posted for: [Signature]

Petitioner: Clendo Pennington

Location of property: W/S Oak Road, 152.87' S and opposite Maple Avenue

(Between 4102-A and 4102-B Oak Road)

Location of Signage: Sign posted at 4102-B Oak Road

Remarks: [Signature]

Posted by: [Signature]

Date of return: November 28, 1991

Number of Signs: 1

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein on Room 106 of the County Office Building, located at 111 West Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-168-A
W/S Oak Road, 152.87' S and opposite Maple Avenue
(Lot #34102-B Maple Avenue
13th Election District
1st Councilmanic District)
Clendo and Mildred Pennington
Hearing Date: Tuesday, Nov. 19, 1991 at 9:00 a.m.

Variance: to permit a building to tract boundary setback of 15 feet and a window to tract boundary setback of 15 feet in lieu of the required building (30 feet) and window (35 feet) for Lot No. 3

LAWRENCE E. SCHMIDT,
Zoning Commissioner of Baltimore County
A/10/324 October 31

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the ARBUS TIMES, a weekly newspaper published in Baltimore County, Md., once in each of _____ successive weeks, the first publication appearing on _____, 19____.

ARBUS TIMES

[Signature]

Publisher

LAWRENCE E. SCHMIDT,
Zoning Commissioner of Baltimore County
A/10/324 October 31



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date

Account: R 001 6150
Number

Cashier Validation

04A040090M:CHEC
\$A C010144M10-08-91
Please Make Checks Payable To: Baltimore County

\$35.00



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date

Account: R 001 6150
Number

Cashier Validation

Please Make Checks Payable To: Baltimore County



COPY

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 11-4-91

Clendo and Mildred Pennington
4102 Oak Road
Baltimore, Maryland 21227

Case Number: 92-168-A
W/S Oak Road, 152.82' S and opposite Maple Avenue
(Lot #3) 4102-B Maple Avenue
13th Election District - 1st Councilmanic
Petitioner(s): Clendo and Mildred Pennington
HEARING: TUESDAY, NOVEMBER 19, 1991 at 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 88.32 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Lawrence E. Schmidt
Lawrence E. Schmidt

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND



COPY

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

NOVEMBER 22, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-168-A
W/S Oak Road, 152.82' S and opposite Maple Avenue
(Lot #3) 4102-B Maple Avenue
13th Election District - 1st Councilmanic
Petitioner(s): Clendo and Mildred Pennington
HEARING: TUESDAY, NOVEMBER 19, 1991 at 9:00 a.m.

Variance to permit a building to tract boundary setback of 15 feet and a window to tract boundary setback of 15 feet in line of the required building (30 feet) and window (35 feet) for Lot No. 3

Lawrence E. Schmidt
Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: Clendo and Mildred Pennington



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

November 4, 1991

Mr. & Mrs. Clendo Pennington
4102 Oak Road
Baltimore, MD 21227

RE: Item No. 175, Case No. 92-168-A
Petitioner: Clendo Pennington, et ux
Petition for Variance

Dear Mr. & Mrs. Pennington:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Zoning Plans Advisory Committee Comments
Date:
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this 8th day of October, 1991.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Samuel A. Baroody, et ux
Petitioner's Attorney: Paul R. Cvach



700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(410) 887-1500

OCTOBER 24, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: CLENDON PENNINGTON
Location: #4102-B OAK ROAD

Item No.: 175 Hearing Agenda: OCTOBER 22, 1991

Centleron:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWED: *Arnold Jablon* Noted and Approved *Robert W. Bowling*
Planning Group Fire Prevention Bureau
Special Inspection Division

JE/FRF

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

October 23, 1991

TO: Arnold Jablon, Director
Zoning Administration and Development Management

FROM: DIVISION OF GROUND WATER MANAGEMENT

SUBJECT: Zoning Item #175, Zoning Advisory Committee Meeting of
October 22, 1991, Clendo Pennington, et ux, W/S Oak Road, 152.82'
S and opposite Maple Avenue, Lot 3, (#4102-B Oak Road), D-13,
Public Water and Sewer

COMMENTS ARE AS FOLLOWS:

In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.

SSF:rmp
175_ZNG/GWRMP

RECEIVED
OCT 25 1991
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: October 23, 1991
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for October 22, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 124, 167, 168, 169, 170, 173, 176, 178, 179, 180, 184, 186, 187, 188 and 189.

In addition, we have no comments at this time for Item #438 (Case No. 91-466).

For Item 166, we will have no comments until the County Review Group Meeting.

For Item 171, see our County Review Group comments dated October 10, 1991.

For Items 174 and 175, minor subdivision review comments were prepared for this site, dated October 9, 1990.

Item 181 represents a minor subdivision, which should be processed through the minor subdivision procedure.

For Item 182, no comments are necessary on density transfer.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:g

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: November 6, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: October 22, 1991

This office has no comments for item numbers 124, 166, 167, 168, 169, 173, 174, 175, 176, 179, 180, 181, 182, 184, 186, 187, 188 and 189.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJF/lvd

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

DATE: November 8, 1991

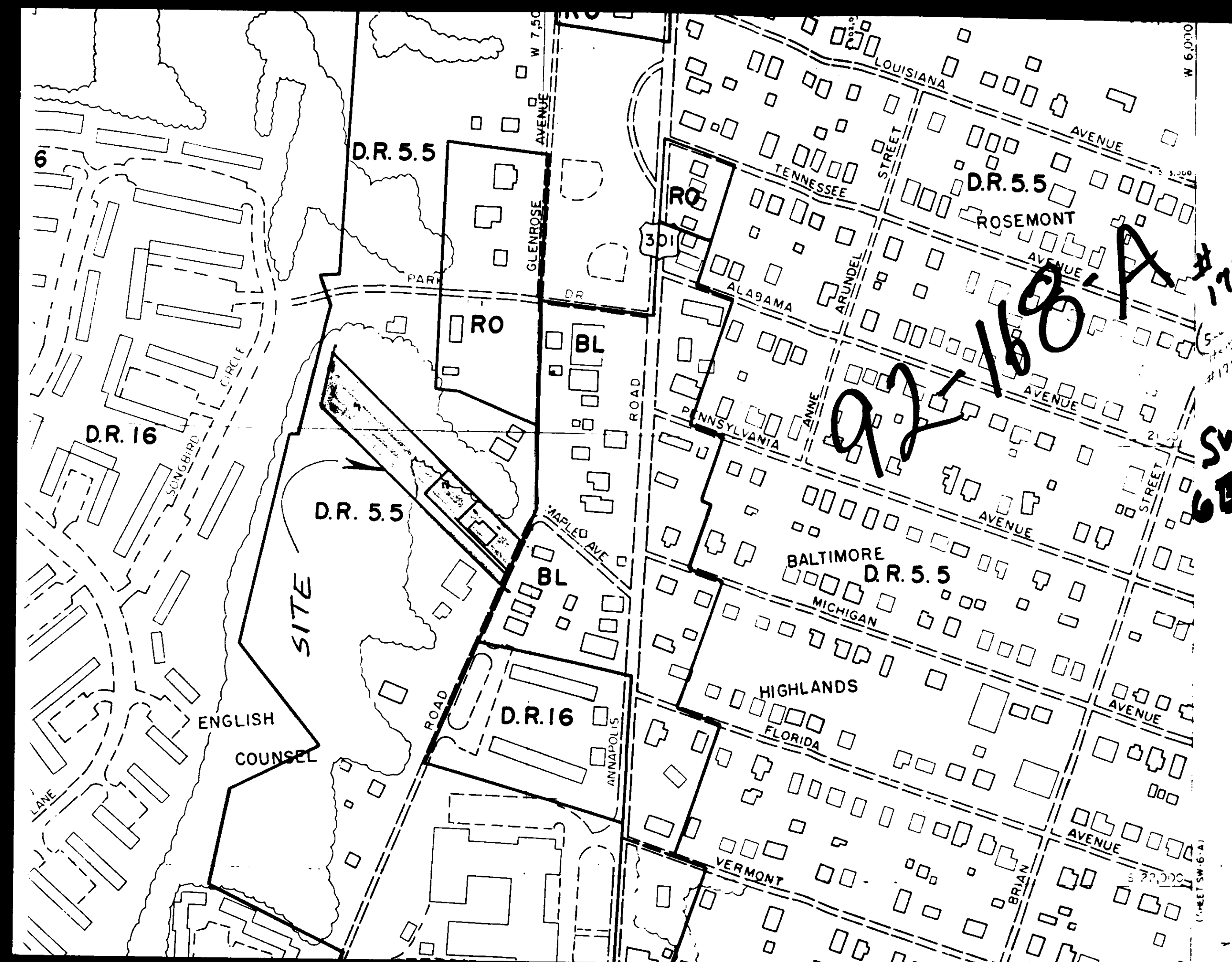
SUBJECT: Pennington Property, Item No. 174 and 175

In reference to the Applicant's request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn

ITMS174.5/TXTRO2



NOTES

1) THERE ARE NO WELLS, SEPTIC SYSTEMS, OR UNDERGROUND FUEL TANKS.

2) THE PAVEMENT SHALL BE PAVED WITHIN ONE YEAR OF THE ISSUANCE OF THE FIRST OCCUPANCY PERMIT AND PRIOR TO THE ISSUANCE OF THE OCCUPANCY PERMIT OF THE LAST LOT TO BE SERVED WHICHEVER COMES FIRST.

3) LOT 2 IS TO BE 4102.5 AND LOT 3 IS TO BE 4102.5

4) THE AREA BETWEEN THE RIGHT LINE AND THE CURB LINE MUST BE CLEARED, GRADED, AND KEPT FREE OF ANY OBSTRUCTIONS.

5) THE PROPOSED USE IS FOR SINGLE FAMILY DWELLINGS.

6) THIS PROPERTY AS SHOWN ON THE PLAN HAS BEEN HELD IN TRUST BY THE OWNERSHIP SHOWN SINCE NOVEMBER 23, 1950. THE DEVELOPER'S ENGINEER HAS CONFIRMED THAT NO PART OF THE GROSS AREA OF THIS PROPERTY AS SHOWN ON THE PLAN HAS EVER BEEN UTILIZED, RECORDED OR REPRESENTED AS DENSITY OR AREA TO SUPPORT ANY OFF-PAVE DWELLINGS.

7) THE AREAS BETWEEN THE RIGHT LINE AND THE CURB LINE MUST BE CLEARED, GRADED, AND KEPT FREE OF ANY OBSTRUCTIONS.

8) THE STREAM IS TO BE CLEARED OF ALL FALLEN TREES, STUMPS, AND DEBRIS.

9) THE STREAM IS TO BE CLEARED OF ALL FALLEN TREES, STUMPS, AND DEBRIS.

10) DRAINAGE & UTILITY EASEMENT

11) DRAINAGE & UTILITY EASEMENT

12) DRAINAGE & UTILITY EASEMENT

13) DRAINAGE & UTILITY EASEMENT

14) DRAINAGE & UTILITY EASEMENT

15) DRAINAGE & UTILITY EASEMENT

16) DRAINAGE & UTILITY EASEMENT

17) DRAINAGE & UTILITY EASEMENT

18) DRAINAGE & UTILITY EASEMENT

19) DRAINAGE & UTILITY EASEMENT

20) DRAINAGE & UTILITY EASEMENT

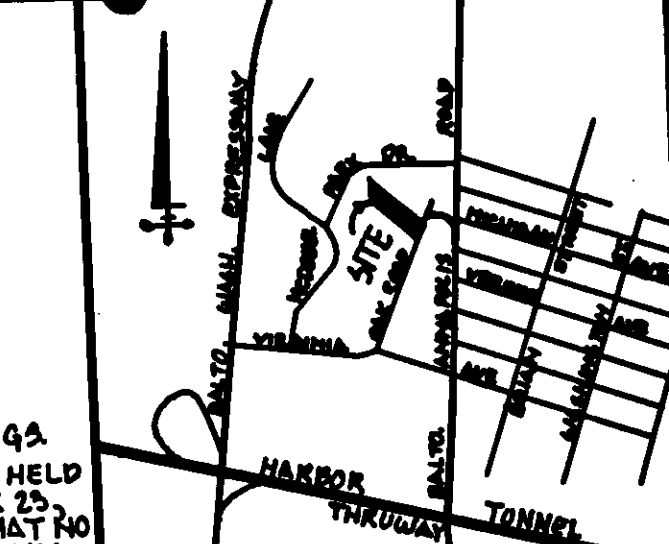
21) DRAINAGE & UTILITY EASEMENT

22) DRAINAGE & UTILITY EASEMENT

23) DRAINAGE & UTILITY EASEMENT

24) DRAINAGE & UTILITY EASEMENT

25) DRAINAGE & UTILITY EASEMENT



VICINITY MAP - SCALE 1"=2000'

100 YEAR FLOOD PLAIN DRAINAGE UTILITY EASEMENT 0.0223 Acres

PEARINGS

1) 41' 4" x 11' 50" W 4.19

2) 21' 25" x 10' 2" 2.19

3) 14' 25" x 10' 2" 1.42

4) 14' 25" x 10' 2" 1.42

5) 14' 25" x 10' 2" 1.42

6) 14' 25" x 10' 2" 1.42

7) 14' 25" x 10' 2" 1.42

8) 14' 25" x 10' 2" 1.42

PREPARED BY: JOHN C. MELLEMA SR., INC. LAND SURVEYORS 2113 EAST DRIVE BALTO. MD. 21227

APPROVED BY: DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

SEPTEMBER, 1990 SCALE 1"=100' JOB # 92-168-A ELECTION DIST. 15th

SUBDIVISION PLAT OF PENNINGTON PROPERTY

4102 OAK ROAD BALTIMORE COUNTY MARYLAND

SEPTEMBER, 1990 SCALE 1"=100' JOB # 92-168-A ELECTION DIST. 15th

92-168-A



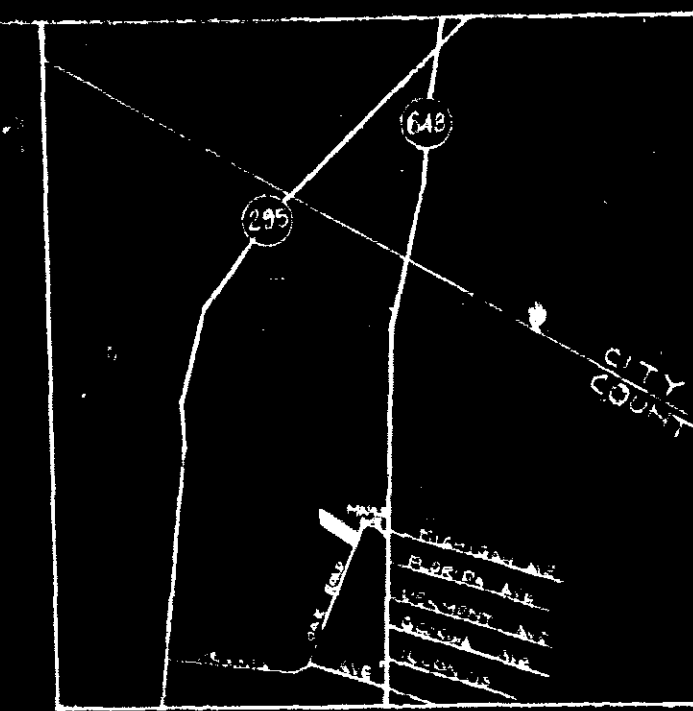
PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL ZONING

PROPERTY ADDRESS: 4102 OAK ROAD

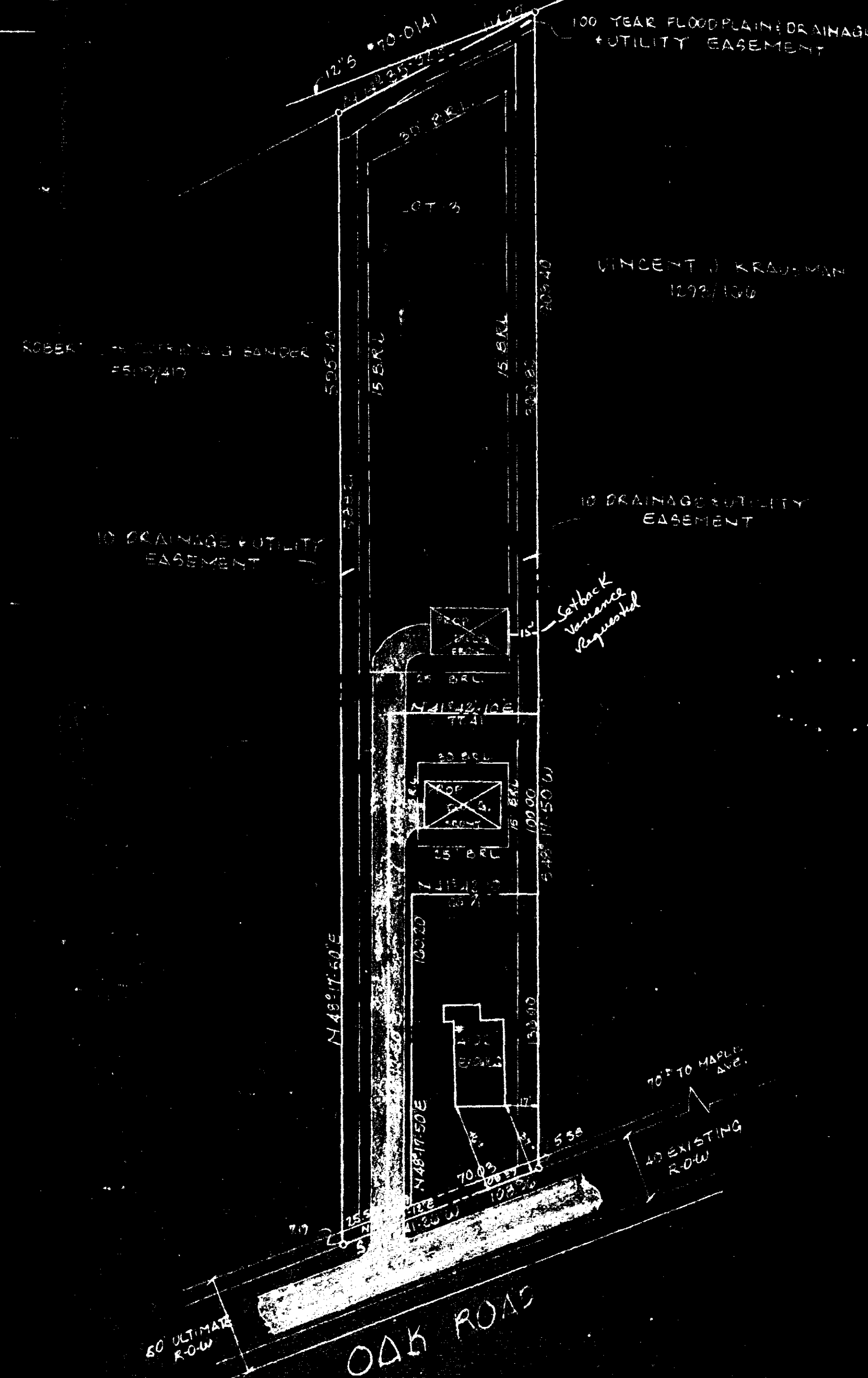
SUBDIVISION NAME: PENNINGTON PROPERTY

PLAT BOOK: 3 FOLIO 22 LOT 3 SECTION 6

OWNER: GLENN PENNINGTON



VICINITY MAP
SCALE: 1" = 200'



92-168-A

PETITIONER'S
EXHIBIT 1

LOCATION INFORMATION

COUNCILMANIC DISTRICT: 1st
ELECTRIC DISTRICT: 13th
1" = 200' SCALE MAP
ZONING: DR 5.5
LOT SIZE: 12,205 SQR FEET
ACREAGE: 0.27918

SEWER: ☒ ☐
WATER: ☒ ☐
CHECKSPEAKE BAY CRITICAL AREA: ☐ ☒
PRIOR ZONING HEARINGS: NONE

ZONING OFFICE USE ONLY

REVIEWED BY: TEM: CASE:
3 -

PREPARED BY:
JOHN C. MELLEMA SR., INC.
LAND SURVEYORS
8815 EAST DRIVE • BALTO. CO., MD 21227

SCALE OF DRAWING: 1" = 50'